

February 4, 2008

**ELECTRONICALLY FILED**

Mr. Joel H. Peck, Clerk  
State Corporation Commission  
c/o Document Control Center  
P.O. Box 2118  
1300 East Main Street  
Tyler Building - First Floor  
Richmond, Virginia 23209

**Re: Ex Parte: In the matter of establishing rules and regulations to implement the sale of electricity from renewable sources through a renewable energy portfolio standard program pursuant to 56-585.2 of the Code of Virginia. Case No. 2007-00107**

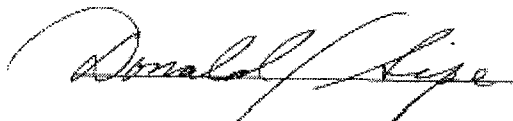
Dear Mr. Peck:

Enclosed for filing are:

- (1) Joint Comments of Virginia Pulp & Paper Manufacturers Commenters, MeadWestvaco, International Paper, Smurfit-Stone Container and Georgia Pacific;
- (2) Motion for Admission Pro Hac Vice of Donald J. Sipe; and
- (3) Motion for Admission Pro Hac Vice of Todd J. Griset.

Please feel free to contact me with any questions.

Very truly yours,



Donald J. Sipe  
Counsel for MeadWestvaco

cc: Service List

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**Commonwealth of Virginia  
State Corporation Commission**

Ex Parte: In the matter of establishing rules and regulations to implement the sale of electricity from renewable sources through a renewable energy portfolio standard program pursuant to § 56-585.2 of the Code of Virginia

Case No. PUE-2007-00107

**JOINT COMMENTS OF VA PULP & PAPER MANUFACTURERS  
COMMENTERS MEADWESTVACO, INTERNATIONAL PAPER, SMURFIT-  
STONE CONTAINER, GEORGIA-PACIFIC**

Pursuant to the Commission's Order establishing proceeding, MeadWestvaco, International Paper, Smurfit-Stone Container Enterprises, Inc. and Georgia Pacific, the "VA Pulp & Paper Manufacturers Commenters", hereby provide comment on certain issues surrounding the implementation of Section 56-585.2 of the Code.

As indicated by the Commission in footnote number 2 of its Order Establishing Proceeding, this proceeding was not initiated to include proposed rules, but rather to receive suggestions as to the types of rules that would be needed. The VA Pulp & Paper Manufacturers Commenters intend to provide recommendations on issues surrounding 1) the type of data and information that should be provided to the Commission to determine whether utilities under its jurisdiction have complied with the requirements of Section 56-585.2 of the Code when qualifying for an award of incentives for RPS goals attained and 2) proper allocation of merchantable biomass credit to assure the 1.5 million tons per year limitation of §56-585.2(F) is not exceeded.

**RECOMMENDATION NUMBER 1:**

The Commission should establish by Rule a standard package of information that investor owned utilities must file in order to demonstrate that they have achieved RPS goals. That standard package of information should include at least the following information:

- A. Identification of unit by location, capacity ratings, average heat rate, and type of generating unit providing electricity claimed as meeting the RPS goals.
- B. Amounts of electrical output of each facility and percentage of fuel mix by type with associated MMBTU conversion factors where appropriate to segregate electricity production by type of fuel.
- C. For all electricity produced using biomass claimed under the RPS program, an inventory of the type of biomass fuel and amount of each type of biomass fuel used. The inventory information shall be documented with invoices, an affidavit or other means sufficient to identify such biomass as merchantable<sup>1</sup> or non-merchantable material as required by Section 56-585.2(F).
- D. Total for all merchantable biomass used for qualification.

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<sup>1</sup> "A tree or any portion of a tree which is used or can be used for lumber and pulp manufacturing by facilities located in Virginia." Section 56-585.2F.

**Rationale:** The only way for the Commission and rate payers to know whether incentive payments are being awarded for activities sanctioned by the statute is to have accurate and sufficiently detailed information on fuel types and amounts used by the utilities producing the electricity claimed. Standardized reporting will assist all Parties in evaluating claims and will limit both controversy and the discovery burden on the Commission and Parties.

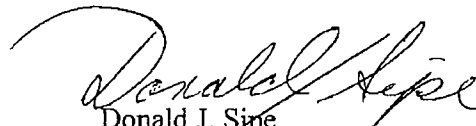
**RECOMMENDATION NUMBER 2:**

In conjunction with these rules, the Commission should establish, by Rule, a formula for allocating to RPS incentive program participants a pro-rata “not to exceed” allocation of merchantable biomass that Participant may use to meet RPS goals. The allocations should be established to prevent utilities participating in the RPS program from collectively, “through installation of new generating facilities, retrofit of existing facilities or through purchases of electricity from new facilities located in Virginia using or causing to be used more than a total of 1.5 million tons per year of green wood chips, bark, sawdust, a tree or any portion of a tree which is used or can be used for lumber or pulp manufacturing by facilities located in Virginia”, towards meeting RPS goals. Because all investor owned utilities are potentially eligible to participate in RPS programs, VA Pulp & Paper Manufacturers Commenters suggest that allocations be established for RPS participants based on their relative share of retail load served in the Commonwealth of Virginia in the RPS incentive measurement year, with no party’s allocation of merchantable biomass to exceed 1.5 million tons per year times their load

serving percentage. The Commission should publish the allocations and reported consumption of merchantable biomass for each utility in each year.

**Rationale:** The statute clearly requires a limitation on the electricity that can be counted towards satisfying RPS goals only to those KWhrs produced using up to 1.5 million tons of merchantable biomass. The statute itself does not provide any priority to use of this limited resource to any one utility or program participant. Some non-discriminatory methodology for awarding RPS credit for use of this limited merchantable biomass resource should be established to avoid conflicting claims for RPS credit from utilities volunteering to participate in achieving RPS goals. Because the Commission cannot legally award credit to electricity produced from merchantable biomass in excess of 1.5 million tons, utilities need some advanced notice of how much merchantable biomass they can use to satisfy RPS requirements. If this number fluctuates based on what others are using, reasonable estimates of how much a Participant can claim in any filing towards satisfying RPS goals should be set. For these reasons, VA Pulp & Paper Manufacturers Commenters suggest utilities be awarded in advance their pro rata allocation based upon percentage of retail load served in the Commonwealth.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Donald J. Sipe", is written over the typed name and title.

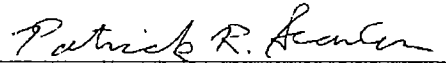
Donald J. Sipe  
Counsel for MeadWestvaco  
On Behalf Of Va Pulp & Paper  
Manufacturers Commenters

**COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION**

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Joint Comments was served via first-class mail, postage pre-paid, this 4<sup>th</sup> day of February, 2008 to:

C.M. Browder, Jr.  
Office of the Attorney General  
Division of Consumer Counsel  
900 East Main Street, 2<sup>nd</sup> Floor  
Richmond, VA 23219



Patrick R. Scanlon  
Virginia Bar No. 31858  
Preti, Flaherty, Beliveau & Pachios, LLP  
One City Center, P.O. Box 9546  
Portland, ME 04112-954

**COMMONWEALTH OF VIRGINIA  
STATE CORPORATION COMMISSION**

Ex Parte: In the matter of establishing  
rules and regulations to implement the sale  
of electricity from renewable sources  
through a renewable energy portfolio  
standard program pursuant to §56.585.2 of  
the Code of Virginia.

CASE NO. PUE-2007-00107

**MOTION FOR ADMISSION PRO HAC VICE OF DONALD J. SIPE**

Pursuant to 5 VAC 5-20-30, Patrick R. Scanlon, an attorney licensed to practice in the Commonwealth of Virginia, moves the Virginia State Corporation Commission (the “Commission”) to admit Donald J. Sipe (“Applicant”) to practice before the Commission pro hac vice, on behalf of MeadWestvaco Corporation (“MeadWestvaco”) in this proceeding and, in support of this Motion for Admission, states as follows:

1. Mr. Sipe is a partner of the law firm of Preti, Flaherty, Beliveau & Pachios, LLP (“PretiFlaherty”) based in Portland, Maine. PretiFlaherty serves as outside energy counsel for MeadWestvaco. Mr. Sipe has been licensed to practice law in the State of Maine, Bar. No. 6898, since 1989, and remains a member in good standing of the Maine Bar.
2. MeadWestvaco and its affiliated companies are consumers of electricity that will be affected by the regulations and implementation of section §56.585.2.
3. On December 3, 2007 the Commission issued an Order Establishing Proceeding, responding to the General Assembly of Virginia’s enacting of Chapter 933 of the 2007 Acts of Assembly (“Chapter 33”) that establishes incentives to allow regulated electric

utilities to implement their renewable resource electricity sales through a renewable energy portfolio standard program ("RPS").

4. Because implementation of §56-585.2 will have a direct impact upon MeadWestvaco, MeadWestvaco has a direct and substantial interest in the subject matter of this proceeding. MeadWestvaco intends to actively participate in this proceeding.
5. Applicant will abide by all Rules of Practice and Procedure of the Commission and will conduct himself as other attorneys admitted to practice before the Commission.

WHEREFORE the undersigned counsel respectfully requests that Donald J. Sipe be admitted pro hac vice to represent MeadWestvaco in this matter.



Patrick R. Scanlon  
Virginia Bar No. 31858  
Preti, Flaherty, Beliveau & Pachios, LLP  
One City Center, P.O. Box 9546  
Portland, ME 04112-9546



**COMMONWEALTH OF VIRGINIA  
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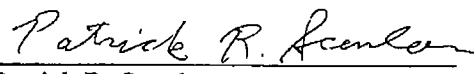
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I hereby certify that a copy of the foregoing Motion For Admission Pro Hac Vice was  
served via first-class mail, postage pre-paid, this 4<sup>th</sup> day of February, 2008 to:

C.M. Browder, Jr.  
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Division of Consumer Counsel  
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Richmond, VA 23219

  
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Virginia Bar No. 31858  
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CASE NO. PUE-2007-00107

**MOTION FOR ADMISSION PRO HAC VICE OF TODD J. GRISET**

Pursuant to 5 VAC 5-20-30, Patrick R. Scanlon, an attorney licensed to practice in the Commonwealth of Virginia, moves the Virginia State Corporation Commission (the "Commission") to admit Todd J. Griset ("Applicant") to practice before the Commission pro hac vice, on behalf of MeadWestvaco Corporation ("MeadWestvaco") in this proceeding and, in support of this Motion, states as follows:

1. Mr. Griset is an associate at the law firm of Preti, Flaherty, Beliveau & Pachios, LLP ("PretiFlaherty"), based in Portland, Maine. PretiFlaherty serves as outside energy counsel for MeadWestvaco. Mr. Griset has been licensed to practice law in the State of Maine, Bar. No. 9326, since 2002, and remains a member in good standing of the Maine Bar.
2. MeadWestvaco and its affiliated companies are consumers of electricity that will be affected by the regulations and implementation of section §56.585.2.
3. On December 3, 2007 the Commission issued an Order Establishing Proceeding, responding to the General Assembly of Virginia's enacting of Chapter 933 of the 2007 Acts of Assembly ("Chapter 33") that establishes incentives to allow regulated electric utilities to implement their renewable resource electricity sales through a renewable energy portfolio standard program ("RPS").

4. Because implementation of §56-585.2 will have a direct impact upon MeadWestvaco, MeadWestvaco has a direct and substantial interest in the subject matter of this proceeding. MeadWestvaco intends to actively participate in this proceeding.
5. Applicant will abide by all Rules of Practice and Procedure of the Commission and will conduct themselves as other attorneys admitted to practice before the Commission.

WHEREFORE the undersigned counsel respectfully requests that Todd J. Griset be admitted pro hac vice to represent MeadWestvaco in this matter.



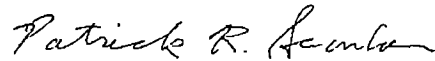
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